Supreme Court, U.S.
FILED
(1)

No. 97-445

SEP - 9 1997

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

COMMONWEALTH,

RESPONDENT,

vs.

FRANK J. CAMOSCIO,

PETITIONER.

ON PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME JUDICIAL COURT

OF THE COMMONWEALTH OF MASSACHUSETTS

PETITION FOR WRIT OF CERTIORARI

FRANK J. CAMOSCIO
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28 pp

QUESTIONS PRESENTED

A. ARE THE RESPONDENTS ENTITLED TO JUDICIAL AND/OR ABSOLUTE IMMUNITY FOR TAMPERING WITH THE OFFICIAL COURT RECORDS ?

B. ARE THE RESPONDENTS ENTITLED TO ABSOLUTE AND/OR JUDICIAL IMMUNITY FOR DENYING THE PETITIONER EQUAL ACCESS TO THE COURTS AND DENYING THE PETITIONER DUE PROCESS OF LAW ?

C. CAN THE RESPONDENT, JUDGE ROBERT A. MULLIGAN DENY THE PETITIONER THE RIGHT TO FACE HIS ACCUSERS AS MENTIONED IN THE SEARCH WARRANT AFFIDAVIT THAT LED TO THE PETITIONER'S ARREST ?

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PETITION FOR WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS

Petitioner, Frank J. Camoscio, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the Massachusetts Court of Appeals entered in the above-entitled cause on March 25, 1997.

I.

OPINION BELOW

The memorandum opinion of the Court of Appeals is attached as Appendix A, although in its arrogance said court failed to explain its judgment.

* * *

II.

JURISDICTION

The opinion of the Court of Appeals of Massachusetts was entered on March 25, 1997. A timely petition for further appellate review was denied by the Supreme Judicial Court of Massachusetts on July 3, 1997.

The jurisdiction of this Court is invoked under Title 42 § 1983 of U.S.C.A. The Respondents have intentionally conspired to deny the Petitioner redress, due process and equal access to the courts under the First and Fourteenth Amendments of the United States Constitution, and Article XII of the Constitution of the Commonwealth of Massachusetts.

III.

CONSTITUTIONAL PROVISIONS INVOLVED

A. The First Amendment of the United States provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. (Emphasis added to pertinent section)

B. The Fourteenth Amendment, Section 1 of the United States Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Emphasis added to pertinent section)

C. The XII Article of the Constitution of Massachusetts:

No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of

his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.
[See Amendments Art. XLVIII. The Initiative, II, sect. 2.]
(Emphasis added to pertinent section)

IV.

STATEMENT OF FACTS

The Petitioner, Frank J. Camoscio filed suit in Middlesex Superior Court

because the Respondents tampered with the official court records by removing from the official court records 11 acted upon motions and Court Orders. The clerk refused to accept any filings from the Petitioner trying to correct the record. The clerk also refused the Petitioner access to the official Docket Sheets or the right to examine the official court records.

This violated the Petitioner's Constitutional Right of equal access to the courts.

Suit was brought to restore these constitutional violations.

V.

REASONS FOR GRANTING THE WRIT

A. The Petitioner is entitled to a

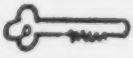
Jury Trial to hear his complaint since the Respondents had tampered with the official court records destroying their Judicial and/or absolute immunity.

The Petitioner demonstrated in his complaint that the Respondents did tamper with the official court records.

The Respondents never denied that they tampered with the official court records.

1. The first issue the Petitioner raised was whether tampering with the official court records was a judicial function.

The Petitioner answered this issue by making the judge aware of Judicial decisions in other Court cases. The Petitioner cited: Slavin v. Curry, 574 F. 2d 1256 (1978).

"18. Civil Rights 13.8(5) Even though state court judge was immune from action for damages for his alleged participation in alteration of transcript and cancellation of bond, judge was not immune from civil rights action for equitable or declaratory relief. 42 U.S.C.A. § 1983." And, "16. Judges  36. Judicial immunity extends only to those functions normally performed by a judge."

B. The Respondents are not entitled to Absolute and/or Judicial immunity for denying the Petitioner equal access to the courts and due process of law.

The Petitioner states that Judge Mulligan could not stop the Petitioner from filing papers in his criminal case because the Petitioner was defending himself and therefore had the same rights as

the prosecutors defending the State. There was no Court Order on the official court records indicating that any judge had written any court order barring the Petitioner from filing any court motions on his behalf, the Petitioner being a pro-se litigant.

Judge Robert A. Mulligan and Clerk-Magistrate Daniel F. Pokaski lack immunity for their misdeeds unless their acts conform to the laws, and they have jurisdiction.

C. The Respondent, Judge Robert A. Mulligan violated the Petitioner's Constitutional Rights when he denied him the right to summons in any witnesses at his criminal trial, including all the persons mentioned in the search warrant affidavit that led to his arrest.

By denying the Petitioner the right to face his accusers the Respondent Judge, Robert A. Mulligan violated the Petitioner's Constitutional Rights. Violating the United States Constitution, Amendment XIV, Section 1, First Amendment of the United States Constitution, and Article XII of the Constitution of Massachusetts.

VI.

CONCLUSION

The Petitioner has demonstrated that the Respondents have acted outside the laws and rules that govern them in their capacity as a judge and clerk-magistrate in the Commonwealth of Massachusetts. The Respondents failed to do this, therefore judicial and absolute immunity is lost.

For the foregoing reasons this Peti-

tion For Writ of Certiorari to the Supreme Judicial Court of the Commonwealth of Massachusetts should be granted.

Respectfully submitted,

Frank J. Camoscio

FRANK J. CAMOSCIO
252 HANOVER STREET
BOSTON, MASSACHUSETTS 02113

DATED: September 5, 1997

Richard F. LaMonica
Notary Public
My Commission Expires July 17, 2003

Certificate of Service

I hereby certify that three copies of the foregoing Petition For Writ of Certiorari were mailed to I. Andrew Goldberg, Assistant Attorney General, 200 Portland Street, Boston, Massachusetts 02114, Attorney for Respondents, Commonwealth of Massachusetts, on this 5th day of September 1997.

I hereby certify that all the statements contained in my Certificate of Service are true and are made under the pains and penalties of perjury.

Frank J. Camoscio

Frank J. Camoscio

Pro Se

Richard F. LaMonica
Notary Public
My Commission Expires July 17, 2003

APPENDIX

Commonwealth of Massachusetts

Appeals Court for the Commonwealth

At Boston,

In the case no. 94-P-1029

COMMONWEALTH

vs.

FRANK J. CAMOSCIO

(and five companion case).

pending in the Superior
#93-10394-1,2,3 & 93-10462-1,2,3
Court for the County of Suffolk

Ordered, that the following entry be made in the docket:

In SUCR 93-10394-001, 003, and 004, the judgments and the order denying the defendant's motion to correct the lower court record are affirmed.

In SUC 93-10462-001, 003, and 004,

APPENDIX "A"

the judgments are affirmed.

By the Court,

_____ , Clerk.

Date March 25, 1997

Signed by:

Nancy Turck Foley
Clerk
Appeals Court
Commonwealth of Massachusetts

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

94-P-1029

COMMONWEALTH

vs.

FRANK J. CAMOSCIO

(and five companion cases[1]).

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

Essentially for the reasons set out in the Commonwealth's brief, in SUCR 93-10394-001, 003, and -004, the judgments and the order denying the defendant's motions to correct the lower court record are affirmed.

Essentially for the reasons set out in the Commonwealth's brief in SUCR 93-10462-001, 003, and -004, the judgments

are affirmed.

So ordered.

By the Court Warner, C.J., Jacobs & Laurence, JJ.),

Clerk

Entered: March 25, 1997.

---

[1] Two of the companion cases are against Frank J. Camoscio, and three are against Paul R. Yocas.

Signed by:

Nancy Turck Foley
Clerk
Commonwealth of Massachusetts
Appeals Court

SUPREME JUDICIAL COURT

FOR THE COMMONWEALTH

ROOM 1412 COURT HOUSE

BOSTON, MASSACHUSETTS 02108

(617) 557-1020

STATE
SEAL

SUSAN MELLEN
Assistant Clerk

L. HOLLIEY WHITE
Assistant Clerk Pro Tem

JEAN M. KENNETT
CLERK

May 13, 1997

Mr. Frank J. Camoscio
252 Hanover Street
Boston, Massachusetts 02113

RE: Motion for Leave to File an Application for Further Appellate Review

Dear Sir:

Please be advised that the Motion for Leave to File an Application for Further Appellate Review filed on May 5,

1997 has been allowed by the Court (Abrams, J. recused.)

Your application plus fourteen copies must be submitted forthwith in accordance with Mass. R. App. Proc., Rule 27.1.

Very truly yours,

Assistant Clerk

Signed by:

Susan Mellen
Assistant Clerk
Supreme Judicial Court
Commonwealth of Massachusetts

SUPREME JUDICIAL COURT

FOR THE COMMONWEALTH OF MASSACHUSETTS

1412 COURTHOUSE

BOSTON, MASSACHUSETTS 02108

(617) 557-1020

Frank J. Camoscio
252 Hanover Street
Boston, MA 02113

RE: Docket No. FAR-09171

COMMONWEALTH
vs.
FRANK J. CAMOSCIO (and five companion cases).

NOTICE OF DENIAL OF F.A.R. APPLICATION

Please take note that on July 3, 1997, the above-captioned Application for Further Appellate Review was denied.

Jean M. Kennett, Clerk

Dated: July 3, 1997

To: Andrew M. Goldberg, Esquire
Frank J. Camoscio

Signed by:

Jean M. Kenneth's name typed in not signed. Jean M. Kenneth is the Clerk for the Supreme Judicial Court for the Commonwealth of Massachusetts.